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Dennis A. Bradshaw

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FEDERAL COMMUNICATIONS COMMISSION

AUG 14 1996

In the Matter of) MM DOCKET No.: 96-70
)
UNDER HIS DIRECTION, INC.)
)
Order to Show Cause Why the)
License for Station KUHD (AM))
Port Neches, Texas Should Not)
be Revoked)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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License for Station KUHD (AM))
Port Neches, Texas Should Not)
be Revoked)

Room 3
FCC Building
2000 L Street, N.W.
Washington, D.C.

Wednesday,
July 24, 1996

The parties met, pursuant to the notice of the
Judge, at 9:59 a.m.

BEFORE: HON. EDWARD LUTON
Administrative Law Judge

APPEARANCES:

On behalf of Federal Communications Commission:

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I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Mark A. Peterson	40		71		47

E X H I B I T S

	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
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Bureau's:

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Hearing Began: 9:59 a.m.

Hearing Ended: 11:58 p.m.

P R O C E E D I N G S

9:59 A.M.

JUDGE LUTON: Good morning.

MR. CINNAMON: Your Honor, if I might just for a second? Mr. Peterson is standing by. He's just waiting for us to tell him when to phone in. If I could have one moment to tell him to phone into the number you gave him, I'll do that.

JUDGE LUTON: Okay.

MR. CINNAMON: Thank you.

(Pause.)

JUDGE LUTON: Good morning, Mr. Peterson.

MR. PETERSON: Good morning, Your Honor.

JUDGE LUTON: You've gotten us here at Courtroom 3 for the hearing this morning on the Order to Show Cause concerning Station KUHD (AM).

The Broadcast Bureau is present represented by Mr. Zauner.

MR. PETERSON: Okay.

JUDGE LUTON: And Mr. Cinnamon is also sitting at counsel table, although he is not going to be able to participate this morning unless he is representing you. Is he representing you, Mr. Peterson?

MR. PETERSON: No, sir, not as a paid counsel.

JUDGE LUTON: As unpaid counsel?

1 MR. PETERSON: As courtesy counsel only in some
2 matters which he's been at courtesy to do at the expense of
3 Vision Latina. But he is not paid counsel by me.

4 JUDGE LUTON: Are you representing yourself? Is
5 that what you're saying?

6 MR. PETERSON: For all practical purposes, yes,
7 sir.

8 JUDGE LUTON: All practical purposes.

9 MR. PETERSON: Yes, sir.

10 And I'm in a local attorney's office here in
11 Nederland. The attorney's name is Donald Moye. If you
12 would like, I can put this on speakerphone.

13 JUDGE LUTON: I don't care what you do with it.
14 It's quite all right. I'm just interested in being sure
15 that I'm dealing with --

16 MR. PETERSON: Sir?

17 JUDGE LUTON: Yes.

18 MR. PETERSON: Go ahead. Hello?

19 JUDGE LUTON: All right. As I'm understanding it,
20 neither Vision Latina nor Mr. Cinnamon has a role in this
21 hearing today. Is that your understanding, Mr. Peterson?

22 MR. CINNAMON: Your Honor?

23 JUDGE LUTON: Excuse me.

24 Mr. Peterson, are you there?

25 MR. PETERSON: Yes, sir. I'm considering your

1 question. In the respect that Vision Latina would like to
2 pursue the license of the station if I'm left with it, they
3 have a significant role in the proceedings and the fact that
4 they have basically paid for all the legal work up to this
5 point.

6 JUDGE LUTON: What role do you think Vision Latina
7 has in this hearing today?

8 MR. PETERSON: Well, I personally feel like they
9 have a vested interest to keep the radio station on in the
10 community.

11 JUDGE LUTON: I'm not talking about an interest.
12 I'm talking about a role. Do you see it doing anything in
13 this hearing this morning?

14 MR. PETERSON: Oh, not at all.

15 JUDGE LUTON: All right. Thank you.

16 All right, Mr. Cinnamon, you've been patient. I
17 cut you off there a couple of times. Please go ahead.

18 MR. CINNAMON: That's okay. I just wanted to
19 maybe help clarify this a little bit. As you know, Vision
20 Latina filed a petition to intervene which was denied. They
21 plan to file an application for review to the full
22 commission; but, rather than staying the proceeding, we
23 thought that we would come this morning for the limited
24 purpose of making one point as a preliminary matter for the
25 record concerning something that I'm not sure the presiding

1 judge is aware of concerning the pending application and the
2 pending request for reinstatement of STA at the Mass Media
3 Bureau which we understand is not being processed and will
4 not be processed regardless of the outcome of this hearing.
5 And we find that to be a rather uncomfortable position for
6 us to be in, sort of a peculiar position because we're at a
7 loss in how best to proceed.

8 JUDGE LUTON: Why do you feel it necessary to
9 bring that to the presiding judge's attention? The judge
10 has nothing to do with that processing.

11 MR. CINNAMON: Well, it appears that the issue
12 before Your Honor is whether or not Mr. Peterson has the
13 present intent and the capability of returning the station
14 to the air. And it would seem that the filing of the
15 assignment application with what we believe to be bona fide
16 buyers plus a representation in the direct case exhibit that
17 the parties were contemplating a time brokerage agreement
18 which would return the station to the air while under his
19 direction remaining the licensee as it is the current
20 licensee would be important. However, we were able to --
21 Vision Latina was planning to enter into this time brokerage
22 agreement in light of the revocation hearing --

23 JUDGE LUTON: I'm going to stop you, Mr. Cinnamon.
24 I'm going to stop you. I am not going to take an interest
25 in what you're proposing here. Vision Latina is not a party

1 to this case. It's not going to be some sort of party -- I
2 don't know what it would be, feeding information to the
3 record that it thinks the record ought to carry even though
4 it has no proper role, no determined role that I can see in
5 the question before me; namely, this Order to Show Cause
6 with carrying the question of whether or not the license for
7 this station should be revoked.

8 All right. We have -- Mr. Peterson, are you
9 there?

10 MR. PETERSON: Yes, sir, I am.

11 JUDGE LUTON: Got a copy of the Mass Media
12 Bureau's Motion to Reject Late Filed Exhibit. That's
13 directed to your own exhibit. Did you receive that?

14 MR. PETERSON: Yes, I did.

15 JUDGE LUTON: You made no response to it. Why is
16 that?

17 MR. PETERSON: Primarily because I -- actually,
18 the response I did make was to ask for this -- him to accept
19 my exhibits based on the fact that I had been ill and
20 suffered heat stroke and that letter I sent to him was dated
21 July the 12th when I submitted my exhibits and I did not
22 think that if you didn't rule against them there was a need
23 to submit a notice of his intent to reject or anything of
24 that sort. I'm not an attorney, so I didn't know the
25 procedure.

1 JUDGE LUTON: Mass Media Bureau earlier filed a
2 Motion to Certify this case to the Commission, too. You
3 made no response to that. Do you know what I'm talking
4 about?

5 MR. PETERSON: I know the letter, but I don't
6 understand the Motion to Certify.

7 JUDGE LUTON: Okay. You made no response to that.
8 Is that because you didn't understand what it was about?

9 MR. PETERSON: Right. I don't understand what it
10 means a Motion to Certify the case.

11 JUDGE LUTON: Okay. I think in this instance, it
12 doesn't mean much.

13 I'm going to deny the Mass Media Bureau's Motion
14 to Reject your exhibit, Mr. Peterson. I don't think that
15 the Bureau could make even if given an opportunity,
16 sufficiently strong showing to cause me to not give you an
17 opportunity to participate in the case.

18 The Bureau has indeed made its motion. I don't
19 know what else it might be prepared to add this morning, but
20 whatever it is, I rather doubt that a prejudice to the
21 degree that would cause me to grant that motion could be
22 shown.

23 Mr. Zauner, I nonetheless must give you that
24 opportunity. If you have any more to add to that motion,
25 the facts that are stated in relation to the motion?

1 MR. ZAUNER: No. The only thing, Your Honor, are
2 the facts that I stated in that motion. As you know, the
3 exhibits were originally due on the 2nd of July and at the
4 licensee's request, that date was extended to the 8th and
5 then on the 8th, the exhibits did not come in and they were
6 not -- there was no proffer of exhibits until the 12th. And
7 as I mentioned in my motion, the fact that the licensee
8 became ill or had other problems on the 8th is really no
9 excuse for not exchanging the exhibits that were to be
10 exchanged here in Washington, D.C. on that date.

11 And it also appears that I've received a copy of
12 the same exhibits from Vision Latina.

13 JUDGE LUTON: That's been a confusing aspect of
14 this case, one that I'm determined to put an end to.

15 MR. ZAUNER: Yes, but the only purpose I'm
16 mentioning that for is that having received that as exhibit,
17 it appears -- which were essentially the same exhibits as
18 those that I subsequently received on the 12th from the
19 licensee here, it appears that the exhibit was prepared well
20 in advance of the 8th and I don't see any reason why it
21 couldn't have been exchanged by the licensee at an earlier
22 time in accordance with Your Honor's directive.

23 JUDGE LUTON: What happened there, Mr. Peterson?
24 Why wasn't the exhibit exchanged earlier?

25 MR. PETERSON: In the last paragraph of the

1 exhibit it states that we were considering negotiating a
2 time brokerage agreement and there is a pending agreement
3 that I had made with the Church of the Christian Crusade to
4 return this station in conveyance of lieu of foreclosure
5 that was still, in my opinion, considered an open document.
6 And I felt like I should discuss that issue with Mr. Moyer
7 here. And I called his office and Mr. Moyer was out of town
8 for a week and I was unable to discuss it with him and I was
9 very hesitant to say anything that would appear as though I
10 was planning something I may not be planning in the event
11 that there was conveyance in lieu of foreclosure agreement,
12 that it could fall back on me if I put the station on the
13 air, then the Church of the Christian Crusade would have an
14 ability to come in and shut me down. And all of those
15 agreements were, as Mr. Zauner stated, they were drawn up,
16 but they were not met with my approval, per se, for me to
17 give that authority to release those to you as a true
18 exhibit. So --

19 JUDGE LUTON: Better to be a few days late.

20 MR. PETERSON: Well, I felt like in an effort to
21 protect everybody, including myself, from a foreclosure, if
22 I have to put the station back on the air and they have an
23 agreement that may still be pending, yes, it would be better
24 to be a couple of days late than to be \$60,000 short.

25 JUDGE LUTON: Okay. All right. The Bureau's

1 Motion to Reject your exhibit, Mr. Peterson, is denied. Is
2 say, "your exhibit," I mean Station KUHD.

3 This is a case in which the Mass Media Bureau has
4 both the burden of proceeding and the burden of proof. That
5 means that the Mass Media Bureau goes first.

6 MR. ZAUNER: Thank you, Your Honor.

7 To meet its burden of proceeding and burden of
8 proof, the Mass Media Bureau would like to have marked for
9 identification a document that consists of a declaration of
10 one, Glenn Greisman. The declaration, itself, is three
11 pages in length and the end of the third page bears the
12 signature of Glenn Greisman.

13 Attached to his statement are five attachments
14 continued in 12 pages, including the pages indicating where
15 the attachments begin.

16 Your Honor, I request that you have marked for
17 identification the document I just described.

18 JUDGE LUTON: All right. That will be marked
19 Bureau Exhibit 1 as described by Mr. Zauner, the declaration
20 of Mr. Greisman consisting of three pages and several pages
21 of attachments.

22 (The document referred to was
23 marked for identification as
24 Bureau Exhibit No. 1.)

25 JUDGE LUTON: Mr. Peterson, do you have that

1 exhibit?

2 MR. PETERSON: Yes, sir, I have it in front of me.

3 JUDGE LUTON: All right. We have just marked it
4 to give it an identification number. That's just a handy
5 way for us to refer to it.

6 Mr. Zauner?

7 MR. ZAUNER: Your Honor, I offer into evidence
8 Mass Media Bureau Exhibit No. 1.

9 JUDGE LUTON: Okay. Now, Mr. Peterson, Mr. Zauner
10 is asking that I receive Exhibit 1 for identification in
11 evidence. It's proper for me, now, to ask whether Station
12 KUHD has any objections and if so, state them, please?

13 MR. PETERSON: I just have one objection that the
14 very last sentence of Mr. Greisman's statement says, "The
15 search also did not reveal that UHD had filed the promise to
16 submit a STA application."

17 This brings up two points. Number 1 is that my
18 agreement with Church of the Christian Crusade is that they
19 would file the application at their expense. And the second
20 thing is that, which I'm getting ahead of myself, I'm sure,
21 but their attorney in the FCC, Michael Wagner, had advised
22 me on exactly what to do on January the 30th and I was
23 following his procedures. Although they were verbal, I was
24 following his procedures. And that's not made reference in
25 here that I had a conversation with him. So that's my only

1 objection to it. Other than that, everything appears to be
2 in order and my letters to the branch concerning the STAs
3 all appear to be in order.

4 Had I followed Mr. Wagner's advice any
5 differently, I would have submitted an STA, but he told me
6 there was really no reason to submit an STA unless I had a
7 party agree to take over the station.

8 That's the only thing I object to is that that's
9 lacking from their declaration.

10 JUDGE LUTON: Okay. But the statement is --
11 you're not saying that the statement is incorrect.

12 MR. PETERSON: No.

13 JUDGE LUTON: You're saying that it doesn't say
14 all that you would hope that it might say.

15 MR. PETERSON: Right. It does not show everything
16 that I did try to do.

17 JUDGE LUTON: Well, it's not your statement, so
18 you wouldn't expect it to include everything that you are in
19 a position to tell us about and you will have that
20 opportunity, yourself.

21 MR. PETERSON: Okay.

22 JUDGE LUTON: So I think the objection that you
23 state is not an evidentiary objection, but it is one which
24 you can respond to as we proceed this morning.

25 Bureau Exhibit 1 for identification is received as

1 Bureau's Exhibit No. 1.

2 (The document referred to
3 having been marked for
4 identification as Bureau
5 Exhibit No. 1 was received in
6 evidence.)

7 MR. ZAUNER: Your Honor, that concludes the
8 Bureau's presentation.

9 JUDGE LUTON: Okay. Mr. Peterson, that's all that
10 the Bureau has to offer this morning.

11 MR. PETERSON: Yes, sir.

12 JUDGE LUTON: It's now the time for you to cross-
13 examine. You don't have a live body here to examine I don't
14 believe.

15 MR. ZAUNER: Your Honor, there was no notice or
16 request for anyone for cross-examination.

17 JUDGE LUTON: Yes. I wonder if Mr. Peterson even
18 understood that that was necessary to be done. It was
19 stated in the order that I issued.

20 Do you have any questions to ask about this
21 statement, Mr. Peterson, or these exhibits that you've
22 already stated that you have no objection. There was a
23 point that you wanted to make concerning the last sentence.

24 MR. PETERSON: Yes. The only statement, the very
25 last page of Mr. Greisman's statements says, "My search of

1 the Commission records prior designation did not reveal
2 either any request by UHD," and so forth and so on. And the
3 search of the Commission's records I feel should have
4 revealed my conversation with Michael Wagner.

5 JUDGE LUTON: Well, yes, it should have; but this
6 is a factual statement the man is giving you. Mr. Greisman
7 is telling you what his search did reveal.

8 MR. PETERSON: Okay.

9 JUDGE LUTON: Or in this instance did not reveal.
10 And you apparently don't have any quarrel with that. I
11 don't know that you are in a position to even quarrel with
12 what Mr. Greisman might or might not have discovered during
13 the search. I don't know how, even if -- do you have any
14 other quarrels of any aspect of the statement?

15 MR. PETERSON: No, sir.

16 JUDGE LUTON: All right. 1 is received, again,
17 Bureau Exhibit 1.

18 Now, Mr. Peterson, we're going to go to UHD's
19 HUD -- KUHD's direct case. You submitted an exhibit
20 indicating to me that despite the placement of the burdens
21 in this case, UHD does indeed intent to present a direct
22 case. Do you want to go ahead and do that, Mr. Peterson?

23 MR. PETERSON: Well, I just wanted to clarify one
24 thing, Your Honor. Did that mean I have an opportunity to
25 make my case and state my point?

1 JUDGE LUTON: Yes, it does.

2 MR. PETERSON: Yes, I would like to do that. I
3 have three main points that I feel really need to be brought
4 to the attention of the FCC and the Court.

5 JUDGE LUTON: Okay. But, first, let's take care
6 of the papers that you submitted.

7 MR. PETERSON: Okay. The direct testimony?

8 JUDGE LUTON: Yes, sir.

9 We have three pages of what's headed, "Direct
10 Testimony of Mark A. Peterson." That's followed by a
11 declaration and there are several attachments, A, B, C, D,
12 E, F, H, and then there is a second exhibit headed, "Direct
13 Testimony of Eloy Castro. It consists of two pages and a
14 declaration. Some of the exhibits -- rather, the
15 attachments to Exhibit 1 consist of more than one page. I
16 didn't bother to count them all out.

17 Let's proceed, Mr. Peterson, as we did with the
18 Bureau by first marking these exhibits for identification.
19 Exhibit 1 consisting of the Direct Testimony of Mr. Peterson
20 and several attachments.

21 (The document referred to was
22 marked for identification as
23 KUHD Exhibit No. 1.)

24 JUDGE LUTON: And Exhibit 2 is a declaration of
25 Mr. Castro. So when we are talking about the exhibits, we

1 can talk in terms of 1 and 2 for identification. All right,
2 Mr. Peterson?

3 MR. PETERSON: Yes, sir.

4 (The document referred to was
5 marked for identification as
6 KUHD Exhibit No. 2.)

7 JUDGE LUTON: Now, what is the narrative portion
8 of Exhibit 1, was that prepared by you, Mr. Peterson?

9 MR. PETERSON: Yes, sir. It was prepared -- I
10 agreed with everything that was put in there.

11 JUDGE LUTON: All right. That's the question I
12 really wanted to ask. It doesn't matter who prepared it.
13 And that's your signature on the declaration's page?

14 MR. PETERSON: Yes, sir.

15 JUDGE LUTON: Okay. Anything you want to change
16 here this morning that's stated there?

17 MR. PETERSON: No, sir.

18 JUDGE LUTON: Then you are ready to offer KUHD 1
19 for identification in evidence, are you?

20 MR. PETERSON: Yes, sir.

21 JUDGE LUTON: Okay. I'll ask the Mass Media
22 Bureau if it has any objections to what's offered.

23 MR. ZAUNER: Yes, Your Honor, on Exhibit No. 1.

24 JUDGE LUTON: Yes.

25 MR. ZAUNER: And just let me state for the record,

1 Your Honor, that the Bureau has provided the court reporter
2 with two copies of KUHD Exhibit No. 1 for inclusion in the
3 record in this proceeding in anticipation of what's
4 happening now.

5 Your Honor, on page 3 of Exhibit No. 1, the Bureau
6 would object to the -- I guess it's the first full paragraph
7 on page 3 which begins with the words, "I explained." The
8 Bureau would object to the last sentences beginning with the
9 words, "Vision's principals told me they were confident they
10 would be able to reach agreements with those parties," and
11 to the end of the paragraph.

12 Our objection is -- well, we have no objection to
13 this is for the state of mind of Mr. Peterson if that's the
14 purpose for which it's being offered, but we would object to
15 the offer for the truth of the matters asserted because
16 these matters deal with Vision Latina and it's principals'
17 intents and purposes.

18 JUDGE LUTON: Okay. Do you understand that, Mr.
19 Peterson?

20 MR. PETERSON: I understand what he read, but I
21 don't understand his objection.

22 JUDGE LUTON: Okay. The language says the
23 Vision's principals told you certain things and they
24 explained certain things to you. The objection is that that
25 language cannot be taken as evidence that the things that

1 you were presumably told by Vision are in fact true. The
2 objection is not that Vision's didn't tell you these things;
3 but, rather whatever you were told and as stated here in the
4 declaration cannot be taken as evidence, for example, of the
5 presumed facts that Vision's principals were confident that
6 they would be able to reach agreements and that Vision's
7 principals would need some time to form a corporation to
8 reach agreements and do those other things.

9 The objection is really -- it doesn't deny that
10 Vision's principals told you these things, but it does deny
11 that whatever you were told cannot be proven by what the
12 statement says.

13 Is that right, Mr. Zauner, kind of?

14 MR. ZAUNER: I think that is correct, Your Honor

15 JUDGE LUTON: Mr. Peterson, I think I'll handle
16 this one for you.

17 The statements are hearsay and are not to be taken
18 as evidence in support of the facts that are stated therein.
19 The statements are unobjectionable to the extent that if
20 state of mind were relevant here and I'm not sure that it
21 was, that it is rather, that -- well, this is Mr. Peterson
22 talking I think is the point. That's understood by me,
23 certainly. This is what Mr. Peterson is saying. This is
24 not what Vision Latina is saying.

25 I won't even ask you if you understand that, Mr.

1 Peterson. I don't understand it very well, myself. But in
2 any event, we are going to let your statement remain the way
3 that it is without striking out any portion of it. That is,
4 any portion that we've talked about thus far. Okay?

5 MR. PETERSON: Thank you.

6 JUDGE LUTON: Mr. Zauner, next objection.

7 MR. ZAUNER: I object to all of the next paragraph
8 as being hearsay and unsupported.

9 JUDGE LUTON: The whole paragraph? It wouldn't
10 seem to be -- well, it isn't necessarily hearsay, is it?

11 MR. ZAUNER: Well, Your Honor, he says -- not
12 necessarily. May I have some voir dire on portions of it?

13 JUDGE LUTON: Sure. Because as it presently
14 stands it is not clearly hearsay to me. I mean it is
15 possible that Mr. Peterson knew for a fact that by March '96
16 Vision Latina had done these things. That isn't necessarily
17 hearsay. It may be. I don't know. Do you want voir dire?

18 MR. ZAUNER: Yes. Please, Your Honor.

19 JUDGE LUTON: All right. Mr. Peterson, Mr. Zauner
20 wants to ask you some questions. This is not cross-
21 examination yet. He wants to ask you some what we'll call
22 preliminary questions about matters that are stated in that
23 middle paragraph on page 3. Okay?

24 MR. PETERSON: Yes, sir.

25 JUDGE LUTON: Mr. Zauner?

1 DIRECT EXAMINATION

2 BY MR. ZAUNER:

3 Q Mr. Peterson, in that paragraph you state that by
4 the end of March 1996, Vision Latina had incorporated. How
5 do you know that they had done so?

6 A How do I know that they had in fact incorporated?

7 Q Yes, sir.

8 A Their attorney, Donald Moye, called me and told me
9 that he was doing it for them and they had in fact
10 incorporated. I took him at his word.

11 Q You also stated in that paragraph that by the end
12 of March 1996 Vision Latina had negotiated and reached
13 agreements with both asset holders and agreed on terms with
14 UHD. As far as the Vision Latina having negotiated and
15 reached agreements with both asset holders, what is the
16 basis of that statement?

17 A The basis of that statement is I told them that
18 they would have to reach agreements before I would allow an
19 application to be submitted and I have in fact verified that
20 they have reached agreements with both parties. I verified
21 that, myself.

22 Q How did you verify that?

23 A I have communicated with those people as to what
24 terms they were making on the properties and on the assets
25 of the station. And, as a matter of fact, it was my

1 recommendation to the station studio equipment assets
2 holder, Ms. McKee, who owns McKee Tower, I'm the one that
3 told her what price to ask for the property, so she would
4 recuperate every bit of her money owed to her in storage
5 fees.

6 Q Where the agreements placed in writing?

7 A I have no idea, but I assume they were. Their
8 attorney, Donald Moye, once again, told me they were.

9 Q Have you ever seen a copy of that writing?

10 A No, I have not.

11 Q You state that by March of 1996, Vision Latina had
12 retained communications counsel to prepare the final license
13 assignment agreement and assignment application.

14 How do you know that by the end of March 1996,
15 Vision Latina had done this?

16 A Well, you're asking me to recall something without
17 a calendar in front of me and March and April tend to run
18 together. But I know that Mr. Cinnamon had communicated
19 with me and I could probably look at some of these exhibits
20 here and look at the dates on them and some of the
21 communications back and forth between Vision Latina and
22 myself and Mr. Cinnamon and give you an exact date that I
23 first knew of it, if you want me to search through all this
24 paperwork here and try to give you that.

25 MR. ZAUNER: Your Honor, at this time, maybe we

1 could just stop at this point and I could renew my motion to
2 strike or to not receive this evidence.

3 JUDGE LUTON: Okay, go ahead.

4 MR. ZAUNER: With regard to Vision Latina having
5 incorporated, the testimony is that he was told -- Mr.
6 Peterson was told this by an attorney. This is hearsay
7 evidence.

8 He also indicated with regard to the agreements
9 with both asset holders that he was unaware of whether or
10 not it had been reduced to writing and it seems obvious that
11 he has not seen -- but he believes that it would have been,
12 but he has not seen the writing. So, absent that, there is
13 no solid evidence that the agreements had been reached with
14 both asset holders or even one asset holder.

15 And, finally, with regard to retaining
16 communications counsel, the witness doesn't know when
17 Vision Latina retained communications counsel, although his
18 statement says by the end of March 1996 that it had.

19 JUDGE LUTON: How about Mr. Castro's statement?

20 MR. ZAUNER: If it is in Mr. Castro's statement,
21 then it is in Mr. Castro's statement and that's where it
22 would come in.

23 JUDGE LUTON: All three of those points, I
24 believe, are covered in Mr. Castro's statement.

25 MR. ZAUNER: Well, if that is, in fact, the case,